

ORIGINAL

DLF
C/M

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----x
BOLIVAR GENAO,

Petitioner,

-against-

UNITED STATES OF AMERICA,

Respondent.
-----x

ORDER

Case No. 07-CV-63 (FB)

Appearances:

For the Petitioner:

DARRELL B. FIELDS, ESQ.
Federal Defender Division
52 Duane Street
10th Floor
New York, NY 10007

For the Respondent:

BENTON J. CAMPBELL, ESQ.
United States Attorney
Eastern District of New York
By: DANIEL A. SPECTOR, ESQ.
Assistant United States Attorney
271 Cadman Plaza East
Brooklyn, NY 11201

BLOCK, Senior District Judge:

On December 10 and 14, 2007, the Court held a hearing to determine, pursuant to *Campusano v. U.S.*, 442 F.3d 770 (2d Cir. 2006), whether petitioner Bolivar Genao ("Genao") instructed his attorney to file an appeal following his sentence in the underlying criminal action entitled *U.S. v. Genao*, 05-CR-288 (E.D.N.Y.). After considering the testimony of Genao and his trial counsel, the Court finds that Genao did instruct his attorney to file an appeal.

Accordingly, Genao's petition pursuant to 28 U.S.C. § 2255 is granted; the Judgement dated August 29, 2006, in 05-CR-228 is deemed entered as of the date of the filing of this Order. If Genao wishes to appeal, he must duly file his notice of appeal within

10 days thereafter. *See Campusano*, 442 F.3d at 776-77.

SO ORDERED.

/signed/

FREDERIC BLOCK

United States District Judge

Brooklyn, New York
December 17, 2007